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04 JAN 2007

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In re Application of De MEUTER et al.
Application No.: 10/550,073
PCT No.: PCT/EP04/02983
Int. Filing: 22 March 2004
Priority Date: 21 March 2003
Attorney Docket No.: 19790-002US1
For: DIRECT COMPRESSIBLE TREHALOSE
SOLIDS

: DECISION ON
:
: RESPONSE TO
:
: NOTIFICATION OF
: DEFECTIVE RESPONSE
:

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371 and applicant's submission entitled "Response to Notification of Defective Response" Under 35 U.S.C. 371 in the U.S. Designated/Elected Office (DO/US) filed on 26 October 2006 in the United States Patent and Trademark Office (USPTO). Applicant's request for a three month extension of time is granted.

BACKGROUND

On 26 May 2006, a Notification of Missing Requirements was mailed to applicants indicating that, *inter alia*, an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and 37 CFR §§1.66 or 1.68, was required.

On 24 July 2006, a Response to the Notification of Missing Requirements was filed in the USPTO accompanied by an executed declaration.

On 05 September 2006, a Notification of Defective Response was mailed indicating that the current declaration had an alteration made to the first inventor's name which was not legible. Applicant was asked to clarify the alteration.

On 26 October 2006, in an attempt to clarify the declaration, counsel, on behalf of applicant, submitted a statement indicating that "the inventor added her middle name, 'Emilienne'".

DISCUSSION

A review of the declaration reveals that the declaration executed by inventor De Meuter has been altered. The USPTO does not accept a declaration that has been altered.

Section 602.01 of the MPEP states the following:

The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly

subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

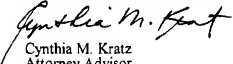
The changes made in the declaration executed by inventor De Meuter were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by Pascale Adolphe Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b), is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

A new acceptable oath or declaration executed by Pascale Adolphe Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b), is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification. There is no time remaining to respond to the Notification of Missing Requirements. The time period for response set forth in the Notification of Missing Requirements has expired. Therefore, no extensions of time limit are available under 37 CFR 1.136.

This application will be held in the PCT Legal Office, Office of PCT Legal Administration to await applicant's further reply, that is, a newly executed oath or declaration by inventor De Meuter, in compliance with 37 CFR 1.497(a) and (b).



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